

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
:
RALEIGH POOLE BAKER, :

Plaintiff, :

20 Civ. 8523 (JPC) (OTW)

-v- :

COMMISSIONER OF SOCIAL SECURITY, :

Defendant. :

ORDER ADOPTING
REPORT AND
RECOMMENDATION

----- X
JOHN P. CRONAN, United States District Judge:

Plaintiff Raleigh Poole Baker filed a claim for Social Security Disability Insurance Benefits on December 27, 2017. Dkt. 15 at 25.¹ After his request for benefits was denied, Baker appeared before an Administrative Law Judge (“ALJ”), who determined after a hearing that Baker was not disabled and therefore not entitled to benefits. *Id.* at 25-33. Following the Appeals Council’s denial of review of the ALJ’s decision, *id.* at 1-4, Baker brought this action seeking judicial review pursuant to 42 U.S.C. § 405(g) of the Commissioner of Social Security’s final determination denying his application for Disability Insurance Benefits. Dkt. 1 ¶¶ 1, 11.

The parties have filed a Joint Stipulation in lieu of a motion for judgment on the pleadings, in which the parties set forth, *inter alia*, a summary of the procedural history, the stipulated facts, a statement of disputed issues, the parties’ respective contentions as to those disputed issues, and the relief requested. Dkt. 22. By Order dated September 6, 2022, the Honorable Ona T. Wang, to whom this case has been referred, Dkt. 6, issued a Report and Recommendation, treating the Joint

¹ Docket Number 15 is the Administrative Record, which was filed on August 10, 2021. The page numbers cited herein refer to the page numbers stamped to pages of the Administrative Record.

Stipulation as dueling motions for judgment on the pleadings. Dkt. 23; *see also* Dkt. 16 at 2 (advising the parties that the Court will determine which party is entitled to judgment under § 405(g) based on the pleadings, the Administrative Record, and the Joint Stipulation, “[i]n accordance with Rule 12(c) of the Federal Rules of Civil Procedure”). Judge Wang recommended that Baker’s motion be granted and Defendant’s motion be denied. Dkt. 23. Judge Wang concluded that the ALJ failed to properly evaluate the opinion of one of Baker’s doctors, Dr. Sami Saba, by not properly addressing the supportability and consistency factors set forth by 20 C.F.R. § 404.1520c, *id.* at 7, and that the ALJ failed to properly evaluate Baker’s subjective statements concerning his symptoms, *id.* at 7-8.


A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge” in a Report and Recommendation. 28 U.S.C. § 636(b)(1)(C). If a party submits a timely objection to any part of the magistrate judge’s disposition, the district court conducts a *de novo* review of the contested section. Fed. R. Civ. P. 72(b)(3); *see also United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). If no objections are made, the court reviews the Report and Recommendation for clear error. *See, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

The Report and Recommendation, citing both Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1), advised the parties that they had fourteen days from service of the Report and Recommendation to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object. Dkt. 23 at 9-10. No objections have been filed and the time for making any objections has passed. The parties have therefore waived the right to object to the Report and Recommendation or to obtain appellate review. *See Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992).

Notwithstanding this waiver, the Court has conducted a *de novo* review of the Report and Recommendation and finds it to be well reasoned and its conclusions well founded. Accordingly, the Court ADOPTS the Report and Recommendation in its entirety. This case is therefore remanded for further administrative review, including but not limited to a *de novo* hearing and a new decision on Baker's entitlement to Social Security Disability Insurance Benefits. The Clerk of Court is respectfully directed to close the motion pending at Docket Number 22, enter judgment remanding the case to the Commissioner of Social Security for further proceedings, and close this case.

SO ORDERED.

Dated: September 26, 2022
New York, New York



JOHN P. CRONAN
United States District Judge